

MONTANA LEGISLATIVE HISTORY

Chapter 127 19 81

Bill H _____ S 171

Original bill & history ☒ c

H. Committee on Judiciary
~~Local Gov.~~

Hearing Date(s) 3-9 ☒ c

3-10 ☒ c

_____ c

_____ c

Date Out _____ c

S. Committee on Local Gov.

Hearing Date(s) 1-27 _____ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 *Senate* BILL NO. 171
 2 INTRODUCED BY *Shea*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT AN ENTRY IN
 5 THE MARGIN OF THE RECORD AS A METHOD TO RECORD THE RELEASE
 6 OF A REAL ESTATE MORTGAGE; AMENDING SECTION 71-1-211, MCA."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 71-1-211, MCA, is amended to read:
 10 "71-1-211. Satisfaction of mortgage -- record thereof.
 11 ~~{1}--Any mortgage that has been or may be hereafter recorded~~
 12 ~~may be discharged by an entry in the margin of the record~~
 13 ~~thereof, signed by the mortgagee or his personal~~
 14 ~~representative or assignee acknowledging the satisfaction~~
 15 ~~of the mortgage in the presence of the county clerk or his~~
 16 ~~deputy who shall subscribe the same as a witness. Such entry~~
 17 ~~shall have the same effect as a deed of release duly~~
 18 ~~acknowledged and recorded.~~
 19 {2}(1) Any A mortgage shall also be discharged upon
 20 the record thereof by the county clerk in whose custody it
 21 shall be whenever there shall be presented to him a
 22 certificate executed by the mortgagee, his personal
 23 representative or assignee, acknowledged or proved and
 24 certified as in this code prescribed to entitle a conveyance
 25 to be recorded, specifying that such mortgage has been paid

1 or otherwise satisfied or discharged.
 2 {3}(2) Every such certificate and the proof and
 3 acknowledgment thereof shall be recorded at full length, and
 4 a reference shall be made to the book and page containing
 5 such record in the ~~minutes of the discharge of such mortgage~~
 6 ~~made by the county clerk upon the margin of the record~~
 7 ~~thereof mortgagor and mortgagee indexes as to the discharge~~
 8 ~~of such mortgage."~~

-End-

-2-

INTRODUCED BILL
 SB 171

RETURNED TO SENATE: 3/4
TRANSMITTED TO GOVERNOR: 3/10/81
ACTION: 3/11, SIGNED
CHAPTER 35

SB 170 -- TOWE -- AMENDING 70-22-109 TO REMOVE THE FILING FEE FOR FILING THE COMPLETE CORNER RECORD UNDER THE CORNER RECORDATION ACT.

INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/17
HEARING: 1/27
REPORT: 1/29, DO PASS AS AMENDED
2ND READING: 1/31, YEAS: 34; NAYS: 15
3RD READING: 2/3, YEAS: 38; NAYS: 9

TRANSMITTED TO HOUSE: 2/3
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/4
ON MOTION, 3/2, RE-REFERRED TO COMMITTEE ON JUDICIARY.
HEARING: 3/9
REPORT: 3/10, BE CONCURRED IN
2ND READING: 3/12, YEAS: 87; NAYS: 2
3RD READING: 3/17, YEAS: 83; NAYS: 12

RETURNED TO SENATE: 3/17

TRANSMITTED TO GOVERNOR: 3/23/81
ACTION: 3/25, SIGNED
CHAPTER 143

SB 171 -- TOWE -- AMENDING 71-1-211 TO PROHIBIT THE METHOD OF ENTERING A RELEASE OF A MORTGAGE IN THE MARGIN OF THE RECORD.

INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/17
HEARING: 1/27
REPORT: 1/29, DO PASS
2ND READING: 1/31, DO PASS
3RD READING: 2/3, YEAS: 47; NAYS: 0

TRANSMITTED TO HOUSE: 2/3
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/4
ON MOTION, 3/2, TAKEN FROM COMMITTEE ON LOCAL GOVERNMENT AND
REFERRED TO COMMITTEE ON JUDICIARY.
HEARING: 3/9
REPORT: 3/10, BE CONCURRED IN
2ND READING: 3/12, YEAS: 90; NAYS: 0
3RD READING: 3/14, YEAS: 93; NAYS: 1

RETURNED TO SENATE: 3/14

TRANSMITTED TO GOVERNOR: 3/18/81
ACTION: 3/23, SIGNED
CHAPTER 127

SB 172 -- MANLEY, BRAND -- TAXING PRIVATELY GENERATED ELECTRICITY TRANSPORTED THROUGH A PUBLICLY OWNED TRANSMISSION SYSTEM...

FISCAL NOTE: REQUIRED

INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION: 1/17
HEARING: 2/3

REPORT: 3/20, DO PASS AS AMENDED
RE-REFERRED TO COMMITTEE ON RULES: 3/24
REPORT: 3/26, ADVERSE REPORT ADOPTED -- YEAS: 26; NAYS: 21
ON MOTIONS, 3/26, RECONSIDERED AND REFERRED TO TAXATION
REPORT: 4/1, DO PASS AS AMENDED

COMMITTEE ON LOCAL GOVERNMENT

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
167	01/17/81	01/31/81	02/18/81		02/18/81				
170	01/17/81	01/27/81	01/27/81			01/27/81			
171	01/17/81	01/27/81	01/27/81	01/27/81					
173	01/17/81	01/27/81	01/27/81			01/27/81			
175	01/17/81	02/05/81	02/18/81			02/18/81			
177	01/17/81	02/14/81	02/18/81		02/18/81				
204	01/20/81	02/03/81	02/10/81			02/10/81			
215	01/20/81	02/03/81	02/18/81			02/18/81			
236	01/22/81	02/03/81	02/03/81			02/03/81			
256	01/23/81	02/05/81	02/05/81			02/05/81			
302	01/28/81	02/05/81	02/05/81	02/05/81					
303	01/28/81	02/05/81	02/05/81	02/05/81					
325	01/29/81	02/10/81	02/14/81			02/14/81			
328	01/30/81	02/10/81	02/10/81	02/10/81					
343	01/31/81	02/10/81	02/18/81			02/18/81			
353	02/02/81	02/12/81	02/14/81	02/14/81					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

is vital to their records. She appreciates everyone's help on this bill.

H. S. (Sonny) Hanson of the Montana Technical Council said anything we can do to encourage the filing should be done. Surveyors do not like doing this anyway so we certainly should not be charging them for this filing.

There were no opponents to Senate Bill No. 170 appearing before the committee.

Senator McCallum then asked for questions from the committee.

Senator Hammond asked if corner recordation is just for section line corners or quarter corners as well.

Mr. Hanson felt it was primarily section corners. He added that the highway department is not even doing this.

Senator Towe said he had looked at the 1963 statute and it requires them to do this for section line corners, not quarter corners.

The suggestion was made the word "fee" be stricken from page 1, line 10. This was agreed upon by Senator Towe.

There were no further questions from the committee.

Senator Ochsner motioned the amendments DO PASS. This motion passed unanimously.

Senator Van Valkenburg motioned Senate Bill No. 170 DO PASS as amended. This motion also passed unanimously.

CONSIDERATION OF SENATE BILL NO. 171: Senator Towe, sponsor of the bill, said this deals with an antiquated statute that generally causes difficulty to the clerk and recorders. It has a provision that allows anyone that wants to satisfy their mortgage to pencil in "satisfied" and the date in the margin, then the clerk signs her name. It works very well, however, there is one problem. You cannot put a margin entry on microfilm. This physically cannot be done. This bill is eliminating this margin entry. A mortgage can be discharged by filing a separate certificate.

William Romine, representing the Montana Clerk and Recorders and proponent of the bill, stated this is not only effecting clerk and recorders but title insurers as well. The title insurers are very reluctant to use margin releases. He would like the committee to decide favorably on this bill.

Ethel Harding, representing the Montana Clerk and Recorders and proponent of Senate Bill No. 171, said attorneys still come into the office and say the law says we make a marginal release. The clerk and recorders explain they cannot do this because of the microfilm problem and ask them to please file a satisfaction certificate. The clerk and recorders would like the law to state they must file a separate certificate. She believes all counties in the state are on microfilm and there is absolutely no way for a margin release.

No opponents of the bill appeared before the committee.

Senator McCallum then called for questions from the committee.

Senator Hammond asked if there will be an additional fee for this separate certificate.

Ms. Harding said the fee is the same. It is \$2 per page in either case.

There were no further questions from the committee.

Senator Conover motioned that Senate Bill No. 171 DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL NO. 173: Senator Towe, sponsor of the bill, explained that at the present time there is a special section in the law that deals with liens for farm laborers. Persons who have worked on a farm, given their labor and have not been paid, have a right to file a lien. There are a large number of different kinds of liens. The filing fee is \$1 for various liens but in the case of the farm laborers, there is a special provision that says their filing fee is \$.50. He would like to strike the reference to \$.50. The Big Horn County Clerk and Recorder suggested they replace the language with new language. They would like to add, "and he shall be entitled to a fee as provided in Section 7-4-2631", to page 1, line 15, after the word "same". Senator Towe feels that suggestion is a valid one.

William Romine, representing the Montana Clerk and Recorders and proponent of the bill, said the advantage to this bill is we would have all the laws in one spot. He feels it is wise to have all the fee laws in one section.

Ethel Harding of the Montana Clerk and Recorders and proponent of the bill said that was exactly their position - to have uniform fees and to have them in the same place in the same code. It makes it easier for the clerk and recorders, the general public and attorneys as well. They would like to see all fees established under one section.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1/27/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 27

19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 171

Respectfully report as follows: That SENATE Bill No. 171

DO PASS

G. A.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 1/27/81 SENATE Bill No. 171 Time 1:15

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Passed Unanimously.

(include enough information on motion--put with yellow copy of committee report.)

NAME: William L. Remine

DATE: 1-27-81

ADDRESS: P.O. Box 1691 Helena

PHONE: 442-2220

REPRESENTING WHOM? Mont. Clerks & Recorders

APPEARING ON WHICH PROPOSAL: S.B. 171

DO YOU: SUPPORT? X

AMEND?

OPPOSE?

COMMENTS: At one time, mortgages were released by a notation
being made in the margin of the mortgage itself. However, for
many years, a formal satisfaction of mortgage has been used.
In addition, mortgages are, in this day and age, are microfilmed.
It is impossible to make a release by notation in the margin
on a microfilm. Therefore, this obsolete law should be
repealed.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Ethel M Harding DATE: 1-27-1981

ADDRESS: Laurel County Courthouse, Polson, Mont

PHONE: 883-6211 Ext 245

REPRESENTING WHOM? Montana Association of Clerk and Recorders

APPEARING ON WHICH PROPOSAL: SB 171

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Due to the fact that most
Montana Counties microfilm permanent
records there is no way of making
a marginal release - no margin to
write on, therefore the only way feasible
to refer to original documents is to
record subsequent ^{document} with reference to
micro file number of original document
to release - amend - or whatever you
wish to do.

Thank you for your consideration.

County of Yellowstone

MERRILL H. KLUNDT
Clerk & Recorder



BILLINGS, MONTANA

59101

January 22, 1981

Senator Thomas E. Towe
Senate District 34
Capitol Building
Helena, Montana 59601

Dear Tom:

I will be unable to attend the hearing on January 27, 1981, at 1:15 p.m. on Senate Bills 170, 171 and 173, as this is the day we have the Commissioner Board meetings and have many important issues to handle this date.

The Montana Clerks and Recorders Association has obtained a lobbyist now and it is Bill Romine and he will be present at the hearing as well as Helen Kovich and possibly other Clerks that I have contacted.

I have examined the bills carefully and find them worded exactly as requested. However, I would like to explain to you what each bill will accomplish.

1. Senate Bill #170 is amending Section 70-22-109 MCA and removing the filing fee only. The Clerks and Recorders Association feels that these corner locations must be recorded as it is a benefit to all the public and land surveyors. The Montana Association of registered land surveyors support this bill also. The filing fee seemed to be the problem, so we as an Association decided to remove the filing fee requirement.
2. Senate Bill #171 is an act amending Section 7-1-211 MCA. The purpose of this bill is to repeal the provision allowing a release on the margin of the document. This process was fine when documents were typed or photostated. With the advent of the microfilm process and nearly all counties use this process, some use photostatic, it is impossible to stamp a 16 mm image on a roll of film. With this provision repealed, they must comply with the new section 1 of this bill.

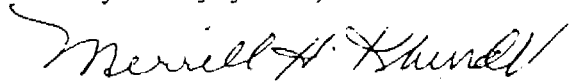
Senator Thomas E. Towe
Page 2

3. Senate Bill #173 is an act amending Section 71-3-403 MCA. The purpose of this bill is to repeal the 50 cents filing fee as stated therein. The fee is provided in Sec. 7-4-2631 MCA, the provision of law designating fees to be charged by the County Clerk and Recorders.

Tom, I wish to thank you personally, as well as the Montana Association of County Clerks and Recorders, for sponsoring these bills, and your prompt action in setting up a hearing whereby they will be heard the same day. These bills were prepared in an excellent manner.

Thank you very much and if I can assist you on any bill, please feel free to contact me.

Very truly yours,

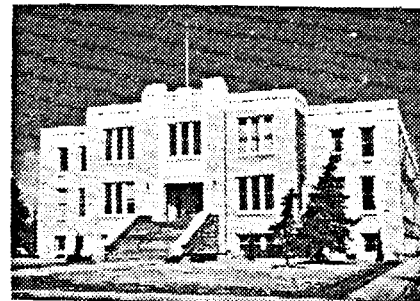


MERRILL H. KLUNDT
Yellowstone County
Clerk and Recorder

MHK/jc

cc: Helen Kovich
Clerk and Recorder
Lewis and Clark County

BIG HORN COUNTY



HARDIN, MONTANA 59034

January 22, 1981

Senator Tom Towe
Montana Senate
Capitol Station
Helena, MT 59601

Dear Senator Towe:

As a member of the Legislative Committee of the Montana Association of Clerks and Recorders, I would like to thank you for introducing some of the housekeeping legislation the Clerks and Recorders had proposed.

S.B. 170. A corner recordation is an important piece of information not only for the surveyors and engineers but the general public. Very few are being placed of record. As I understand, it is quite time consuming and expensive for the surveyors to prepare the document needed for filing. It is the feeling of our organization that there should be no fee because of the value of the information. We charge, of course, for certificates of survey and subdivision plats and when these instruments are drawn, etc. is when the a corner is either established or re-established. For clarity and for the information of surveyors and new clerks and recorders, I would suggest that paragraph 5 state that there shall be no filing fee.

S.B. 173. The clerks and recorders are trying to have referenced in each law or piece of legislation the provisions of Section 7-4-2631 which is the fee schedule that we follow. Again for new clerks and recorders and attorneys, banks, etc., it would be most helpful to have this reference and a uniform fee schedule. I would hope that a reference could be included in this legislation to Section 7-4-2631.

S.B. 171. The act of releasing a real estate mortgage on the margin of the original instrument is archaic. With the advent of photographic means of recording such as microfilm, it is impossible to release any instrument on the margin. When this was a popular way of releasing a margin, the proof needed to identify the person performing the act was non-existent.

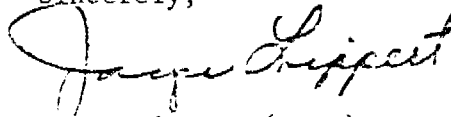
Senator Tom Towe

-2-

January 22, 1981

It will be impossible for me to attend the hearings on these bills on the 27th since that is the regular meeting day for the Board of Commissioners. Again, thank you for carrying these bills for the clerks and recorders.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joyce Lippert". The signature is written in dark ink and is positioned above the typed name.

Joyce Lippert (Mrs.)
Clerk and Recorder

A-10-1 A (3)

LINCOLN COUNTY
MONTANA

Office of
ELEANOR L. VAUGHN
County Clerk and Recorder

January 21, 1981

LIBBY, MONTANA

Senator Tom Towe
Montana State Senate
Capitol Building
Helena, Montana 59601

Dear Senator Towe:

I am writing in regard to the hearing on January 27 for the following Senate Bills:

Senate Bill 170 - amending 70-22-109 to remove the filing fee for filing the complete corner record under the corner recordation act - in dealing with surveyor's we feel it would be easier to get corner recordations filed if there was no fee required, and since this information is so valuable to the records it would be to our advantage and the advantage of the public to get these on record and it seems eliminating the fee might help.

Senate Bill 171 amending 71-1-211 to prohibit the method of entering a release of a mortgage in the margin of the record. Since most counties are using some form of micro-filming and it is impossible to do a marginal satisfaction on these records, therefore this law should be amended.

Senate Bill 173 - Amending 71-3-403 to remove the specific fee for filing Farm Laborers' Liens - since there is already a section dealing with filing of liens, therefore this is repetitious law and should be amended.

I want to express my thanks for your efforts in sponsoring the bills for the Clerk & Recorder's Association. Without Senators like you who are willing to help us with sponsoring bills that we feel are needed in order to do a competent job in our offices it would be most difficult. If there is ever anything I can do to help with any of these bills, please feel free to contact me.

Sincerely,



Eleanor L. Vaughn, Clerk & Recorder
Lincoln County, Libby, Montana

JUDICIARY COMMITTEE

37 Legislature

SENATE BILLS

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
475	Adopting of revisions to the model Business Corporations act recommended by ABA.	3/3/81	Mazurek	3/27/81	Do Pass As Amended 3/27/81	3/27/81
479	Validating certain conveyances of real property containing technical defects.	3/3/81	Crippen	3/26/81	Do Pass As Amended 3/27/81	3/27/81
33	Amending numerous sections consistent with the mandate to the code commissioner contained in 1-11-204.	3/2/81	Goodover	3/24/81	Do Pass As Amended 3/26/81	3/26/81
144	Creating the criminal offense of false claims to public agencies.	3/2/81	Hazelbaker	3/11/81	Do Pass as Amended 3/12/81	3/12/81
170	Amending 70-22-109 to remove the filing fee for filing the complete corner record under the Corner Recordation Act.	3/2/81	Towe	3/9/81	Do Pass 3/10/81	3/10/81
171	Amending 71-1-211 to prohibit the method of entering a release of a mortgage in the margin of the record.	3/2/81	Towe	3/9/81	Do Pass 3/10/81	3/10/81

WILLIAM ROMINE, Clerk & Records, supports the bill. EXHIBIT 4.

JOANNE MCFARLANE, Clerk & Records, supports the bill. It seems to be a matter of jealousy. This will help to determine who is a legal surveyor.

There were no further proponents.

There were no opponents.

REP. DAILY asked when a surveyor finds a corner marker must it be reported. MCFARLANE stated the problem is they cannot always find the original corner. It must be available for the public record. They all start at the same corner. The records are coming in so fast the office does not have time to check it out.

SENATE BILL 171 REP. KEYSER, presenting the bill for SENATOR TOWE, stated this bill is to amend 71-1-211 to prohibit the method of entering a release of a mortgage in the margin of the record.

WILLIAM L. ROMINE, Clerk & Records, supported the bill.
EXHIBIT 5.

JOANNE MCFARLANE, Clerk & Records, supported the bill. Twice she has been required to release mortgages by reference in the margin.

There were no further proponents.

There were no opponents.

No questions were asked.

SENATE BILL 173 REP. KEYSER, presenting the bill for SENATOR TOWE, stated this bill is to amend 71-3-403 to remove the specific fee for filing farm laborers' liens.

WILLIAM ROMINE, Clerk & Records, supported the bill. EXHIBIT 6. This places it all under the general fee section.

JOANNE MCFARLANE, Clerk & Records, supports the bill.

There were no further proponents.

There were no opponents.

REP. DAILY asked what is a farm laborers lien. MCFARLANE stated it allows the farm laborer who does not get paid to file a lien on the crop.

7-9-81

NAME: William L. RamineDATE: 7-22-81ADDRESS: P.O. Box 1691 HelenaPHONE: 442-2220REPRESENTING WHOM? Mont. Clerks & RecordlersAPPEARING ON WHICH PROPOSAL: S.B. 171DO YOU: SUPPORT? XAMEND? OPPOSE? COMMENTS: At one time, mortgages were released by a notationbeing made in the margin of the mortgage itself. However, formany years, a formal satisfaction of mortgage has been used.In addition, mortgages are, in this day and age, are microfilmed.It is impossible to make a release by notation in the marginon a microfilm. Therefore, this obsolete law should berepealed.

VISITORS' REGISTER

SENATE

HOUSE

JUDICIARY

COMMITTEE

BILL

171

Date 3/9/81

SPONSOR

Towe

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

The amendments from the last executive session for this bill were read to the committee.

REP. CURTISS moved do pass as amended.

REP. EUDAILY made a motion to strike on page 5, lines 3 after "damaging" and to renumber the following sections. The amendment carried.

The motion of do pass as amended carried with REP. SEIFERT voting against the motion.

SENATE BILL 162 REP. SEIFERT moved do not pass.

REP. EUDAILY moved to adopt the amendment as provided by the sponsor and to strike (b) of 19(b). REP. EUDAILY withdrew his motion.

REP. KEEDY felt that section 1 of the bill was worth saving. REP. HANNAH asked how will that help clear up the courts and what kinds of problems will occur if we don't clear it up? REP. KEEDY was not sure. REP. HANNAH stated the sponsor felt the legal community thought this was clear but the courts disagree.

A roll call vote on the motion of do not pass resulted. Those voting yes were: KEYSER, SEIFERT, CONN, CURTISS, EUDAILY, HANNAH, IVERSON, MCLANE, and ABRAMS. Those voting no were: ANDERSON, DAILY, SHELDEN, TEAGUE, YARDLEY and BROWN. The motion carried 9 to 6.

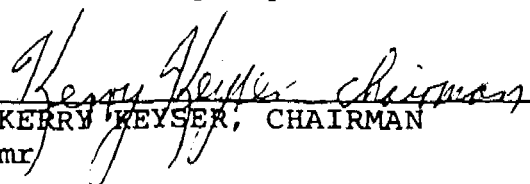
SENATE BILL 170 REP. CURTISS moved do pass. She felt this would reduce the fee. Surveyors can survey over and over again and it is useless.

The motion of do pass carried with DAILY, EUDAILY, KEYSER and CONN voting no.

SENATE BILL 171 REP. BROWN moved do pass. The motion carried unanimously.

SENATE BILL 173 REP. SEIFERT moved do pass. The motion carried unanimously.

The meeting adjourned at 10:20 a.m.


KERRY KEYSER, CHAIRMAN
mr